

REMARKS

Claims 9, 15 and 21-32 are pending in this application. Attached hereto is a complete listing of all claims in the application, with their current status listed parenthetically. By this Response, no claims have been amended, cancelled or withdrawn.

Priority

In paragraph 2 of the Office Action, the Examiner asserts that Applicant's claimed priority date to a prior-filed application is invalid, as the prior-filed application and the instant application were never co-pending. In response, Applicant directs the Examiner to attached Exhibit A that includes a photocopy of a return receipt postcard bearing a 21 November 2003 OIPE stamp. The postcard lists a request for a 3 month extension of time for the prior-filed application, and a Notification of Continuation. The attached Exhibit B includes the actual Notification of Filing a Continuation, and also includes a Petition and Fee For Extension of Time (a three month request), and authorizes the USPTO to charge the 3 month extension fee to a Deposit Account. Both documents include a Certification under 37 C.F.R. § 1.8(a) and 1.10, certifying that both documents were deposited with the U.S. Postal Service on 21 November 2003.

Therefore, the prior-filed application (serial number 09/781,069) and the instant application were co-pending, and Applicant's claimed priority is valid.

Rejection Under 35 U.S.C. § 102(b)

In the Office Action, claims 9, 15 22-28 and 30-31 stand rejected as anticipated by Retrogames X-Arcade Review ("Retrogames").

Applicant respectfully traverses this rejection because the Retrogames reference cannot be considered as prior art for making a *prima facie* case of unpatentability. Specifically, the

Retrogames reference has a publication date of December 24, 2001. Applicant's application claims priority to provisional application serial no. 60/218,308 filed July 14, 2000. Applicant's priority date is prior to the Retrogames publication date.

Moreover, in Applicant's Response mailed October 31, 2005, Applicant submitted a Declaration under 37 C.F.R. 1.132 declaring that Christopher Gerding, the only named inventor of the instant application, conceived of the invention in 1998, and reduced it to practice while exercising the requisite due diligence in his home's private garage where, from conception in 1998 to reduction to practice in 1999, he privately constructed a experimental prototype of the invention. The invention was then displayed to the public in 1999, and on July 14, 2000, a provisional patent application was filed less than one year from the first public display of the invention.

In view of the above discussion, Applicant respectfully submits that the Section 102(b) rejection of claims 9, 15 22-28 and 30-31 have been traversed.

Rejection Under 35 U.S.C. § 103(a)

In the Office Action, claims 21, 29 and 32 stand rejected as unpatentable under 35 U.S.C. § 103(a) over Retrogames in view of U.S. Patent 5,874,906 (“Willner”).

As discussed above, the Retrogames reference cannot be considered as prior art for making a *prima facie* case of unpatentability. Because Willner fails to provide the teachings in the Retrogames reference, Applicant respectfully traverses this rejection and respectfully requests the Examiner to reconsider and withdraw the rejection.

Conclusion

Applicant believes that this Response has addressed all items in the Office Action and now places the application in condition for allowance. Accordingly, favorable reconsideration and allowance of claims 9, 15 and 21-32 at an early date is solicited. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned.

Respectfully submitted,



Peter R. Martinez
Attorney for Applicant(s)
Reg. No. 42,845

December 6, 2007
Date

EXHIBIT A

Attorney Docket No: 117018-1 Initials SMO/bsr Date 11/27/03
Inventor/Applicant: L.D. M. I. No. 09/781,069
Title: *Alcohol Step Video Game*

PATENT/DESIGN APPLICATION

- pgs. Specification
- pgs. Claims
- Total _____ Independent
- pgs. Abstract
- Sheet(s) of Drawings
- Formal _____ Informal
- Declaration/Power of Attorney
- Small Entity Status
- Copy of Notice to File Missing Parts
- PCT Request
- Fee Calculation Sheet
- Demand for Prel. Examination
- Base Issue Fee
- Supplémental Declaration

AMENDMENT (Due _____)

Extension of Time For 3 Month(s)

INFORMATION DISCLOSURE STATEMENT

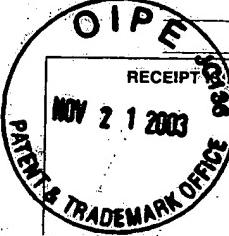
PTO/SB/08A _____ Refs.

ASSIGNMENT _____ Recordation

CHECK(s) in Amount \$ _____

TRANSMITTAL _____ New Application

OTHER *Notification of Cancellation*



RECEIPT HEREBY ACKNOWLEDGED

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Christopher Gerdung

Application No.: 09/781,069

Filed: 02/09/2001

For: ARCADE STYLE VIDEO GAME ADAPTER SYSTEM

Group No.: 3713

Examiner: Enatsy, A

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION AND FEE FOR EXTENSION OF TIME (37 C.F.R. § 1.136(a))

1. This is a petition for an extension of the time for a total period of three months to Response to the office action dated May 23, 2003.
2. A response in connection with the matter for which this extension is requested is filed herewith. The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application.
3. Applicant is a small entity. A verified statement was already filed
4. Calculation of extension fee (37 C.F.R. § 1.17(a)(1)-(5)):

Extension:
 three months

Fee for small entity:
 \$475.00

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
 Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

G deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

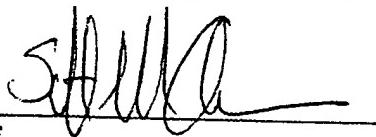
G with sufficient postage as first class mail.

37 C.F.R. § 1.10*

G as "Express Mail Post Office to Addressee"
 Mailing Label No. EV415641956US (mandatory)

TRANSMISSION

G facsimile transmitted to the Patent and Trademark Office. (703) _____


 Signature

Scott M. Oldham

(type or print name of person certifying)

* Only the date of filing ('1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under '1.8 continues to be taken into account in determining timeliness. See '1.703(f). Consider "Express Mail Post Office to Addressee" ('1.10) or facsimile transmission ('1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Fee \$475.00

If an additional extension of time is required, please consider this a petition therefor.

Extension fee due with this request \$475.00

5. Extended period for response

Based on the extension requested in this petition (and that for which a previous petition has been filed, if any), the extended period for response will expire on November 23, 2003.

6. Fee Payment

Authorization is hereby made to charge the amount of \$475.00 to Deposit Account No. 15-0450.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate copy of this paper is attached.

Date:

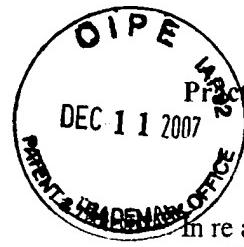
11/21/03



Signature of Practitioner

Reg. No.: 32,712
Tel. No.: 330-864-5550
Customer No.: 021324

Scott M. Oldham
Hahn Loesr + Parks LLP
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Akron, OH 44313-7188



Practitioner's Docket No. 117018-1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Christopher Gerdung
Application No.: 09/781,069 Group No.: 3713
Filed: February 9, 2001 Examiner: Enatsky, A
For: ARCADE STYLE VIDEO GAME ADAPTER SYSTEM

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTIFICATION OF FILING OF CONTINUING,
DIVISIONAL OR CONTINUED PROSECUTION APPLICATION

Notification is hereby being made of the filing of a continuation application for this case concurrently herewith.

Date: 11/21/03

Reg. No.: 32,712
Tel. No.: 330-864-5550
Customer No.: 021324

Signature of Practitioner

Scott M. Oldham
Hahn Loeser + Parks LLP
Twin Oaks Estate
1225 West Market Street
Akron, OH 44313-7188

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

G deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)
G with sufficient postage as first class mail.

37 C.F.R. § 1.10*
G as "Express Mail Post Office to Addressee"
Mailing Label No. EV415641956US (mandatory)

TRANSMISSION

G facsimile transmitted to the Patent and Trademark Office, (703) _____

Scott M. Oldham

(type or print name of person certifying)

* Only the date of filing ('1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under '1.8 continues to be taken into account in determining timeliness. See '1.703(f). Consider "Express Mail Post Office to Addressee" ('1.10) or facsimile transmission ('1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.